

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Lumsden Quan,
Artsonian,
1835 Divisadero Street,
San Francisco, California 94115

Plaintiff,

v.

Scott Kennedy,
7771 Wild Turkey Walk
Maineville, Ohio 45039

Defendant,

Karen Knabb,
7771 Wild Turkey Walk
Maineville, Ohio 45039

Defendant,

*1930s Antique Huge Indian Chief
Oil Painting 5 Ft. Tall,*

Defendant-in-rem.

and

Cookie Walter,
a/k/a EllenWalter a/k/a EllenWitt
a/k/a stonybrookcenterinc
Director of Nursing
4954 Main Street
Downers Grove, Illinois 60515

Stonybrook Center Inc.
27W281 Geneva Road
Winfield, Illinois 60190

4129 Main Street
Downer's Grove, Illinois 60515

Case No. 09-0866

Judge Susan J. Dlott

ORDER GRANTING MOTION
FOR IMMEDIATE ISSUANCE
OF WRIT OF REPLEVIN/
ORDER OF POSSESSION
AND TEMPORARY
RESTRAINING ORDER

(INCLUDING NOTICE AND
REQUEST FOR HEARING)

I. ORDER GRANTING MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiff having moved for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65(b), and this cause having come to be heard on the Verified First Amended Complaint of Plaintiff (doc. 8) and the statements of Plaintiff's counsel, and it appearing that immediate and irreparable injury, loss, and damage will result to Plaintiff, who has demonstrated a likelihood of success on the merits in this breach of contract, conversion and replevin matter, and Plaintiff's counsel having certified that there was no attempt to notify Defendants prior to the filing of the underlying Motion because there is a risk Defendants will secrete and abscond with the Defendant-in-Rem, *1930s Antique Huge Indian Chief Oil Painting 5 Ft. Tall* ("the Painting") or sell the painting to a third-party who may take the painting beyond the jurisdiction of this court, and because time is extremely urgent to get this document to the U.S. Marshall in Illinois to seize the Painting; the public interest supports immediate seizure of the painting; and no third parties appear likely to be harmed by granting this Motion;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. Defendants Walter, Kennedy and Knabb, their agents, servants, employees and attorneys and any third party in active concert or participation with either or both of them are commanded to immediately produce for seizure by the U.S. Marshall Service the Defendant-in-Rem, *1930s Antique Huge Indian Chief Oil Painting 5 Ft. Tall*, a color photo of which is annexed as Exhibit A hereto.
2. Defendants Walter, Kennedy and Knabb, their agents, servants, employees and attorneys and any third party in active concert or participation with either

or both of them are hereby restrained and enjoined, as enforceable by this Court's contempt powers, from (a) handling, transporting, selling, trading, transferring, consigning, offering as collateral or security for any loan or debt, or in any other manner disposing of the painting; (b) taking any action that would alter or affect Plaintiff's interest in the painting; and (c) harming or altering the painting in any way.

This Temporary Restraining Order shall remain in effect for ten (10) days from the day of entry and at that time shall expire, unless extended for a period not to exceed another ten (10) days, unless Defendants consent that it may be extended for a longer period.

Any person 18 years of age or older and not a party to this suit may serve this Temporary Restraining Order on the Defendants. This Temporary Restraining Order may also be served as provided in Federal Rule of Civil Procedure 65(e).

II. WRIT OF REPLEVIN

The U.S. Marshall is hereby commanded to:

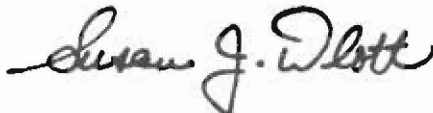
1. Serve a copy of this Order and Writ on Defendant Cookie Walter; and
2. Take the personal property *1930s Antique Huge Indian Chief Oil Painting 5 ft. Tall*, a photograph of which is attached as Exhibit A hereto, and deliver it without delay to the Plaintiff, c/o Alexander Kreder, who is to deliver it to the Contemporary Arts Center, c/o Carissa Barnard, Exhibitions Director, 44 E. 6th Street, Cincinnati Ohio 45202, and of this Writ make legal service and due return to the Court.

III. NOTICE REGARDING ORDER OF POSSESSION

The Clerk is hereby ordered to issue to the Defendant a copy of the Verified First Amended Complaint and Summons (if not already served), the Motion for Immediate Issuance of Warrant of Replevin and Temporary Restraining Order (doc. 10), and this Order, which expressly incorporates the Notice and Request for Hearing appended hereto.

IT IS SO ORDERED.

Entered this 4th day of December, 2009:

A handwritten signature in black ink, reading "Susan J. Dlott". The signature is written in a cursive, flowing style. The first name "Susan" is written in a larger, more prominent script, followed by "J." and "Dlott". The signature is positioned above a horizontal line.

Chief Judge Susan J. Dlott
United States District Court

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Lumsden Quan,	:	
	:	
	:	
Plaintiff,	:	Case No. 09-0866
v.	:	
	:	
Scott Kennedy, et al.,	:	Judge Susan J. Dlott
	:	
Defendants.	:	

NOTICE (pursuant to Ohio Revised Code § 2737.19)

You are hereby notified that this court has issued an order in the above case in favor of Plaintiff Lumsden Quan, the movant in this proceeding, directing that *1930s Antique Huge Indian Chief Oil Painting 5 Ft. Tall* (photo attached as Exhibit A), now in your possession, be taken from you. This order was issued on the basis of the Plaintiff's claim against you as indicated in the documents that are enclosed with this notice.

If you dispute the Plaintiff's claim and believe that you are entitled to possession of the property, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing. If you request a hearing, it will be held within three business days after delivery of your request for hearing and notice of the date, time, and place of the hearing will be sent to you.

You may avoid a hearing but recover and retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of \$ 75,001.00.

If you do not request a hearing or file a bond before the end of the fifth business day after you receive this notice, possession of the property will be withheld from you during the pendency of the action. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Lumsden Quan,

Plaintiff,

v.

Scott Kennedy, et al.,

Defendants.

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Case No. 09-0866

Judge Susan J. Dlott

REQUEST FOR HEARING

I dispute the claim for possession of property in the above case and request that a hearing in this matter be held within three business days after delivery of this request to the court.

I dispute the claim for the following reasons: (Optional)

(Name of Respondent)
(Signature)
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION."